APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,490	03/08/2001	Christopher Keith	IVEN125530	4750

52531	7590	02/06/2006	EXAMINER	

CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER
FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 March 2001</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/17/2001</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1.   The information disclosure statement (IDS) submitted on September 17, 2001 is in

compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure

statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

2.   Claims 1 and 3-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Jain et al

(US 6,343,278)

Re claim 1, a method of facilitating trading of orders in a batch process, comprising:

Automatically determining premiums offered or demanded for the orders in a batch at a

particular price (see Jain, Abstract; col. 8, ll. 55+), and

Automatically pairing the orders in accordance with their respective premiums(see Jain,

col. 1, ll. 39-46; and col. 2, ll. 4-13; and col. 9, ll. 20+).

Re claim 3, wherein determining the premiums occurs when the orders in the batch are

posted to a batch process (see Jain, col. 9, ll. 21-37).

Re claim 4, Wherein automatically pairing includes giving preference to orders offering

premiums, the preference being proportional to the size of the premium (see Jain, col. 9, ll 32-

41).

Re claim 5, Wherein automatically pairing includes giving preference to orders

demanding premiums, the preference being inversely proportional to the size of the premium

(see Jain, col. col. 9, ll. 42-49).

Re claim 6, automatically setting the price for each pairing based on the premiums

associated with the orders in the pairing (see Jain, col. 9, ll. 66 to col. 10, ll. 22).

Re claim 7, wherein each pairing includes a buy order and a sell order, and automatically

setting sets the pairing price to a market price when both orders are offering a premium (see Jain,

col. 8, ll. 55 to col. 9, ll. 19)

Re claim 8, wherein each pair includes a buy order and a sell order and the buy order

offer premium is at least the sell order demand premium and automatically setting sets the

pairing price to a market price plus the sell order premium (see Jain, col. 9, ll. 21+)

Re claim 9, wherein each pairing includes a buy order and a sell order and the sell order offer premium is at least the buy order demand premium, and automatically setting sets the pairing price a market price less the buy order premium (see Jain, col. 9, ll. 66 to col. 10, ll. 12).

Re claim 10, wherein each pairing includes a buy order and a sell order, and automatically setting marks the pairing as unmatchable when the premiums indicate lack of a mutually acceptable price

Re claim 11, wherein the premiums indicate lack of mutually acceptable price when the buy order demand premium is greater than the sell order offer premium (ii) the sell order is greater than the buy order offer premium ore (iii) the buy order and the sell order are both demanding premiums (see Jain, col. 10, ll. 47+)

Re claim 12, further comprising automatically adjusting the price for a pairing when one of the orders in the pairing is also participating in the unmatchable pairing (see Jain, col. 10, ll. 47+)

Re claim 13, automatically converting liquidity curves respectfully associated with the orders into premiums offered or demanded for orders and (see Jain, col. 8, ll. 55+)

Automatically posting the orders with premiums to a batch process, the batch process for automatically pairing the orders in accordance with their perspective premiums (see Jain, col. 1, ll. 39-46; and col. 9, ll. 20+; and esp. col. 11, ll. 37+)

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 2, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain

in view of Lupien et al (US 5,689,652).

Re claims 2, 14 and 15, The teachings of Jain have been discussed above showing a

method of facilitating trading of orders in a batch process. Jain fails to disclose wherein

determining premiums occurs in accordance with respective *liquidity curves* associated with the

orders in the batch.

Lupien discloses trading orders in a batch process in accordance with respective liquidity

curves associated with the batch (see Lupien, see figs. Abstract, col. 3, ll. 43 to col. 4, ll. 40). It

is well known that a large quantity of stock that is disproportional to the stock's average trading

volume, the buyers or seller will pay a premium to the market price of the stock in order to

execute the trade. One of ordinary skill in the art at the time of Jain would have recognized the

notoriously old and well known batch order process and have been motivated to integrate

liquidity curves in association with a batch (or *group*) of orders to allow traders to readily enter

combinations of orders and trading strategies, as well as give users a degree of control and

flexibility by providing greater market liquidity. Thus such a feature would provide greater user

satisfaction and thus constitute an obvious expedient well within the ordinary skill in the art.

Conclusion

3.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Lupien et al (US 5,845,266) discloses crossing network utilizing satisfaction density profile with

satisfaction density profile with price discovery features

Korhammer et al (US 6,278,982) discloses securities trading system for consolidation of trading

on multiple ECNs and electronic exchanges

Horrigan et al (US 6,493,682) discloses optimal order choice: evaluating uncertain discounted

trading alternatives

Silverman et al (US 5,924,082) discloses negotiated matching system

Silverman et al (US 5,924,083) discloses distributed matching system for displaying a book of

credit filtered bids and offers

Nieboer et al (US 6,418,419) discloses automated system for conditional order transactions in

securities or other items in commerce

Luke et al (US 6,131,087) discloses a method for automatically identifying, matching and near-

matching buyers and sellers in electronic market transactions

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742.

The examiner can normally be reached on Flex.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel S Felten
Examiner
Art Unit 3624

DSF
February 02, 2006